IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL REVISION NO. 4290 OF 1994

DATE OF DECISION: December 06, 2006.

Parties Name

Union of India

...PETITIONER

VERSUS

Malkiat Singh and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH

PRESENT: Mr. Rajiv Sharma,
Standing Counsel for the petitioner- UOI

Mr. Vikas Kumar, Advocate;

JASBIR SINGH, J. (oral)

ORDER:

This revision petition has been filed against order, vide which objection application, filed by the petitioner, was dismissed. It is not in dispute that vide Notification dated June 7, 1972, issued under Section 7(1) of the Requisition and Acquisition of Immovable Property Act, 1952, 84 Kanals 11 Marlas of land was acquired by the petitioner. In that land, respondent Malkiat Singh and his brother Harjit Singh were the joint owners. Compensation was disbursed to them in accordance with share of respondent No. 1 and his brother in the land in dispute. Brother of respondent No. 1 prayed for enhancement of the compensation and the matter was referred to an Arbitrator vide notification dated November 29, 1977. In arbitration proceedings, compensation was enhanced. Dispute came before this Court and while deciding appeal filed by the petitioner and cross-objection, filed by brother of respondent No. 1, the compensation was

further enhanced to Rs. 30,000/- per Acre along with other statutory benefits. Respondent No. 1 then moved an application before the Court below claiming enhanced amount of compensation, as ordered by this Court. Petitioner raised an objection that as respondent No. 1 has not agitated the matter, when originally compensation was awarded, and he was not a party before the Arbitrator and also before this Court. So he is not entitled to claim amount of enhanced compensation. The Court below, on analysis of evidence on record, while deciding issue No. 3, has observed thus:

> "10. Vide order dated 14.11.1983 Ex. DH and DH5, passed in cross- objections No. 6 CII of 1983 titled as Union of India Versus Harjit Singh, the Hon'ble High Court of Punjab and Haryana had granted compensation at the enhanced rate of Rs. 30,000/- per acre with solatium at the rate of 15% and interest at the rate of 6% on the enhanced amount of compensation. The contention of the applicant is that in view of the said order of the Hon'ble High Court he is entitled to the grant of compensation at the enhanced rate plus solatium and interest. On the other hand, the contention of the learned Government Pleader is that the applicant is not entitled to the grant of enhanced compensation, solatium and interest as claimed as he was not a party to the arbitration proceedings and also to the cross-objections decided by the Hon'ble Punjab and Haryana High Court. According to the learned Government Pleader, by execution of agreement in form 'K' Ex/R.1, the applicant had received full and final compensation with regard to his share of land acquired by the Central Government, whereas his brother

Harjit Singh had executed an agreement in form 'L' Ex. R2 pending determination of the amount payable as compensation to him. According to the learned Government Pleader the case of the applicant cannot in the circumstances be equated with Harjit Singh and so the applicant cannot derive any benefit out of the orders passed in favour of Harjit Singh. The learned counsel for the applicant has, however, argued that the land acquired by the Central Government had been jointly owned by the applicant and his brother Harjit Singh and for this reason the award given by the arbitrator and the order passed by the Hon'ble Punjab and Haryana High Court in cross-objections enures for the benefit of the entire estate and so the applicant is entitled to the grant of compensation at the enhanced rate plus solatium and interest, as claimed. According to him the execution of the agreement at Ex. R1 in form 'K' by the applicant does not affect the claim set up by the applicant. In support of his arguments he has relied upon a decision of the Hon'ble Punjab and Haryana High Court rendered in Civil Revision No. 815 of 1986 decided on 24.11.1986- Harmant Singh and others Versus Land Acquisition Collector Gurgaon and others reported as 1987 PLJ 22 and a judgment of the Hon'ble Supreme Court of India in Civil appeals Nos. 54 to 56 of 1975 decided on 9.8.1991 and reported as AIR 1991 Supreme Court 1966 – A. Vishwanatha Pillai and others Versus Special Tehsildar for Land Acquisition, No. IV and others. In the first case reported as 1987 PLJ 22 Harmant Singh Versus Land Acquisition Collector, Gurgaon and others, it was held by

the Hon'ble Punjab and Haryana High Court that a reference made by one set of co-sharers for enhancment of compensation normally ensures to the benefit of other co-sharers as well since land acquired is one and their interests in every fraction of it, howsoever microscopic they are, are joint and indivisible. It was also held that the mere fact that their respective shares are defined in the record of rights is not synonymous to say that each share is distinct and specified. It was further held in the said case that land owner may accept payment without demur or may accept the same under protest seeking revision of offer in order to get just compensation by means of a reference to a Court under section 18 of the Land Acquisition Act and the Court then enters upon the dispute to determine what the land owner be paid for the compulsive sale. It was further held that what emerges in the award is just compensation due to be paid to the land owners by the State and the Collector. In the second case reported as AIR 1991 Supreme Court 1966- A. Vishwanatha Pillai and others Versus Special Tehsildar for Land Acquisition No. IV and others, it was held by the Hon'ble Supreme Court that where compensation is enhanced on a reference sought by one of the co-owners of the land and other co-owners do not expressly seek reference, the co-owners not seeking reference would also be entitled to enhanced compensation pro-rata as per their shares.

10.In the case in hand the copy of the notification dated 29.11.1977 Ex. A2 shows that a reference had been made to the arbitrator for determining the amount of compensation in

respect of the entire 84 Kanals 11 Marlas of land owned by the Applicant and his brother Harjit Singh and not with regard to only ½ share of Harjit Singh in the said land. Consequently, keeping in view the law laid down in the two authorities referred to above, and the fact that enhanced compensation had been awarded by the arbitrator with regard to the entire land measuring 84 kanals 11 marlas and not only with regard to the share of Harjit Singh only, in my view the applicant is entitled to the grant of compensation at the enhanced rate plus solatium at the rate of 15% and interest at the rate of 6% per annum on the enhanced amount of compensation as granted by the Hon'ble Punjab and Haryana High Court, vide its order dated 14.11.1983 Ex. DH3. The amount of compensation when calculated at the rate of Rs. 30,000/- per acre for ½ share of 84 Kanals 11 Marlas of land of the share of the applicant comes to Rs. 1,48,521/-. After deducting therefrom a sum of Rs. 26,422/- (in round figures) already paid the remaining amount due to the applicant on account of enhanced compensation works out to Rs. 1,22,099/-. The amount of solatium at the rate of 15% on Rs. 1,48,521/- works out to Rs. 22,278/-. The amount of interest at the rate of 6% per annum on the enhanced amount of compensation, i.e., Rs. 1,22,099/- or say Rs. 1,22,100/- from 22.8.1973, the date of receipt of Rs. 26,421.88 by the applicant, to the date of filing the application i.e. 31.7.1991, works out to Rs. 10,900/-. As a result, it is held that the applicant is entitled to recover Rs. 1,55,277/-. The issue is decided accordingly in favour of the applicant and against the

judgment-debtors/objectors.

It is not in dispute that the land, which was subject matter of acquisition, was joint. It will be very harsh to the respondent No.1 if for the joint land, he is not paid the enhanced compensation, half of which has already been paid to his brother. Otherwise also, in view of ratio of the judgment of the Hon'ble Supreme Court in A. Vishwanatha Pillai and others v. Special Tahsildar for Land Acquisition No. IV and others, AIR 1991 Supreme Court 1966, wherein it was held that when compensation is enhanced at the instance of one of the co-sharers, other co-sharers are entitled to get enhanced compensation, no case is made out for interference. Dismissed.

December 06, 2006 (Jasbir Singh)
DKC Judge